File No. 284

1889

Mysore Residency

Pros. Serial Nos.

Subject.

Extending to the C & M Stations of [illegible]

The Probate & Administration Act, V

" " " Act, V

The Succession Certificate Act, [illegible]

Previous References.

Later Reference

7 1367 90

7 918 9[illegible]

RESIDENT'S OFFICE.

OFFICE NOTE.

FILE No. 208 of 1889

In letter No 845 dated 17th
Sl no 1. April 1889, the C & S Judge of the
C & M Station requests that the
desirability of moving the Govt
of India to extend the undermentioned
Acts to the C & M Station of Bangalore,
may be laid before the Resident,
viz,

(1) Act V of 1881 (The Probate & Admrs Act
(2) Act VI of 1889 (An Act to amend
the Indian Succession Act 1865,
the Probate & Admrs. Act 1881,
the Court Fees Act 1870 and
the Indian Stamps Act 1879)
(3) Act VII of 1889 (The Succession
Certificate Act, 1889).

This repeals Act XXVII of 1860 which is in force in the Coorg Station?
29/5 JdL

2. Submitted for favor of orders—

PSK. PTO.

3. In the way in which enactments are now extended, viz, with the limitation that they are to apply "so far as they may be applicable", there seems to be little need for excepting any Sections or ~~Subsections~~ parts of Sections, or for making any modifications.

PBK 11/5/89

4. May the Postal Guide be addressed?

5 (1) Is there nothing to show why Act V of 81 has not been extended before?

(2) Are all the other Acts amended by Act VI of 89 in force in the Com Station?

(3) Are all or any of these three Acts (recommended by Col: Hill) in force in Mysore, or Secundrabad Cant[t], or Berar, or 18[t] Hill or Rajputana railway?

(Continuation of Note or Precis.)

to the fact that in the case of the —, Provincial Small Cause Courts' Act, IX of 1887, the Govt of India, of their own motion, suggested to us the extension of the new Act which, in British India, had repealed Act XI of 1865.

14. If the Succession Certificate Act be extended, Act V of 1889 should also be extended, for, the effect of the former "will be to induce most representative of deceased persons to take out letters of administration under Act V of 1881."

15. If the Extension of Act V of 1881 is recommended, a draft notification under section 2, may also be forwarded to Govt of India for bringing it into force immediately?

16. May a reply from Colonel Tod to our letter (serl no 2) be awaited, before the file is again taken up for disposal?

P&K
1/6/89.

17. Letter from the C & S Judge, No 1028, dated 7th June 188 — in reply to our letter (serial no 2) — pointing out the inconvenience resulting from the non-extension of Act V of 1881 & of the other Acts referred to in our letter.

18. Submitted for favour of orders —
Draft to Foreign recommending & giving brief reasons as above for each Act proposed. 13/6

P&K
10/6/89.

* In serl no 1 of this office file no 410 of 1887 (put up)

Please see lines 4, 5, 6 & 7 of page 1, serl no 3 of ~~file no~~ of Coorg Ch: Comm's office file no 240 of 1888 (put up)

Draft to Foreign with necessary draft notifn Subd for favr of approval.

PSK
15/6/89

Fair the letter & Submit for Resident's appl

17/6

Fair draft with accompaniments submitted to Resident.

PSK
17/6.

Draft issued No. 2072/2089 S. 4. dated 21st June 1889 –

Reply from Foreign No. 3166 I, S. 5 dated the 8th August 1889 –.

The Govt of India forward a copy of a notifn No. 3153 I, dated the 7th Augt 1889, extending all the three Acts recommended by us; and as regards the draft notifn under Sec. 2 of Act V of 1881, they have so modified it as to empower not only the Dt Court of the Civil Judge, but also that of the Resident, as a High Court, to exercise concurrent jurisdiction in this respect under Sec. 87 of the Act.

The same alteration was made for Coorg.

A copy of the F.D. notifn may be sent to the Civil Judge of the Nilgiris; and the draft notifn under Sec. 2 of Act V of 1881

RESIDENT'S OFFICE.

Office Note.

FILE No. 208 1899.

Foreign Office Telegram N: 495 2/a
of 22nd Feb: calling attention to his
letter N° 205 of 23rd July 1868, and
requiring if Native Christians in
Lagos are still exempt from
Succession duty —

The letter referred to is not in this
Office - I asked the Manager of
the Lagos Branch Office and
he says it is not forthcoming in
their records - and that the
very letter was asked for by the
Banker on the 22nd inst! -

May the Foreign Office be asked
by wire to send copy of the letter
in question?

H 27.2.99

Please refer this question put by Foreign to the Under. D.O. Lr. to see if you immediately reply mentioning that the letter could not be forthcoming under your

1/3

1/3 & 1/3

Draft D.O. Lr. for approval.

AL
1-3-99

2/3

Judl. Registrar.

Please see S. 8 and 9.

Telegram 615 I.A from Foreign reached me yesterday. As Dewan had gone, I wrote to Mr Thumboo Chetty there & his reply. Please have draft TE Foreign ready for me on arrival at office. I've got to go & see the D A A G. & shall be in office about 2 p.m.

b/3.

Draft telegram to Foreign was submitted as directed and approved and despatched.

(Continuation of Note or Precis.)

S. 15

Chitty has forwarded with his D. of the 15th instant copies of the correspondence on the subject and promises to send a few printed copies when ready. After the reply at S. 12 was sent to Foreign nothing further has been heard from them. If approved the copies received may be filed - for orders

A.E.
23-3-99

filed

14/3

The file is submitted with a printed copy of the correspondence as directed above.

A.E.

Printed - see
F.O. 2/77
14/1254

Sealed with File 96
F'96 4/1914

Post Reg.

Please refer to the Rees Speech at a recent meeting of the Legis. Council Calcutta. He mentioned certain persons under the Indian Christian Labour Emigration Act (XIII of 1922) Where is the Act? Is there any?

AR

12/4

14/4

In connection with the Court-fees Act Amendment Bill the Hon'ble Mr. Rees contended that Native Christians should be exempted from the payment of succession duty i.e. of court-fee at 2 p.c. payable on probates and letters of administration taken out under the Indian Succession Act (X of 1865). He said that the Succession and Administration Acts were based on Equity English

(Continuation of Note or Precis).

I note that the telegram was duly received (probably on the 9th - a Sunday) and files 208 of 1889 and 96 of 1895 were sent to the Resident - I sent both files as I was not sure which one was wanted - Both files returned with Res's note of 12th instant & reached us on the 14th (yesterday). They are again sub-

K.D.E
15/4.

Why probably. What is the telegram?
a- bottom of p 1.
Not known in response to tel: - The Comp Clerk that has letter the that file 96 of 1895 had come & gone back - ? Did the see it as the enclosure with the other file. Had any tel of the 8 been returned like a bolt, I think it have overlooked the file I wanted which answers to the description of Nat Thin

RG

17.4.

I wrote "probably" in above note because the telegram was not then before me & not in the file - The telegram is submitted - it was desp^d 4.20 p.m on the 8th - I got it same evening (Saturday) & marked it "early" -
On Monday at office Mr Clarke proposed to send only this file i.e 208 of '89. but I said the other file should go also .i.e. 96 of '95. Both refer

to disabilities of Native Xns - I was doubtful
which was wanted & I was anxious that
there should be no mistake -

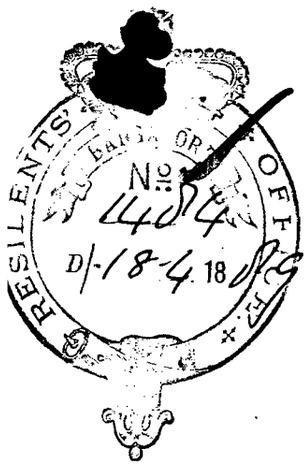
Acc.ly Mr Clarke wrote on my slip
"Submitted to Res.r with file 208 of '89"

whether this slip was hidden away at
bottom of papers or not I cannot say
but I submit that both files were sent
in response to your telegram of 15th

KSE
20/4.

Res.r

Mr Clarke & I both looked
& couldn't find it here
MK



Civil and Sessions Court, 1
Civil and Military Station,
Bangalore 19th April 1889.

No. 845

From,

The Civil and Sessions Judge
Civil and Military Station,
Bangalore.

To,

The Assistant
to the Resident in Mysore
Bangalore.

Sir,

I have the honor to request that you will be so good as to lay before the Resident the desirability of moving the Government of India to extend the marginally noted Acts to the Civil and Military Station, Bangalore.

Act I of 1881. The Probate and Administration Act.
Act No. II of 1889 (An Act to amend the Indian Succession Act 1865, the Probate and Administration Act 1881, the Court-fees Act 1870 and the Indian Stamp Act 1879.)
Act No. III of 1889 (The Succession certificate Act 1889.)

I have the honor to be,

Sir,

Your most obedient servant

Civil and Sessions Judge.

Recd 25/4/89 PSK

Civil and Sessions Court,
Civil and Military Station,
Bangalore 7th June 1889.

No. 1028

From,

The Civil and Sessions Judge
Civil and Military Station,
Bangalore.

To,

The Assistant
to the Resident in Mysore,
Bangalore.

Sir,

I have the honor to ac-
: knowledge the receipt of your
s/c 2. letter No. 1816/2089 of the 1st inst. re:
: questing to be informed as to
whether any practical inconveni-
: ence has resulted from the
non-extension to the Civil and
Military Station of Act V of 1881,
Act II of 1889, and Act III of 1889.

In reply I beg to submit
that Bangalore being one of the
most

most important towns in India it is at all times advisable that the legal method of procedure should be in conformity with the advanced views of the Supreme Legislature, and in so far that it is not in respect to these Acts causes it to assume a backward position in relation to public requirements. The Local bar is attended by Practitioners of the High Court of Madras, who quote these enactments in support of motions made to the Court, and express their surprise on being informed of their inapplicability.

Especially in respect to

RESIDENT'S OFFICE.

Serial No. 4.

[DRAFT.]—For approval.

No. 2012 In 3
2089

Dated, 21st June 1889

To

The Secretary to the Govt. of India

Foreign Department.

Sir,

I have the honor to recommend the extension to the Civil and Military Station of Bangalore of the provisions, so far as they may be applicable, of the following enactments, namely:—

(a) Act No V of 1881 (The Probate and Administration Act, 1881).

(b) Act No VI of 1889 (An Act to amend the Indian Succession Act, 1865, the

Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters).

(c) Act No VII of 1889 (The Succession Certificate Act, 1889).

The native population of the C & M Station is large and prosperous; and the Civil Judge has brought to notice that the want of Act X of 1881 causes practical inconvenience. This opinion appears to me reasonable; and I observe

Draft
(Continuation of ~~Note or Precis.~~) Encl: 62-X

Notification

Whereas the G.G in C has power and jurisdiction within the Civil & Military Station of Bangalore; In exercise of such powers and jurisdn, and of the powers conferred by sections 4 & 5 of the Foreign Jurisdiction & Extradition Act, XXI of 1879, and of all other powers enabling him in this behalf, the G.G in C is pleased to extend the provisions, so far as they may be applicable, of the following enactments to the Cd M Station of Bangalore, namely:—

Act No I of 1881 (The Probate and Administration Act, 1881).

Act No VI of 1889 (An Act to amend the Indian Succession Act, 1865, the Probate & Admn Act 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters).

Act No VII of 1889 (The Succession Certificate Act, 1889).

17/5

PSK
15/6/89.

No. 422. Judl. F.S. 4

From J. P. Hewett Esqr.

Officiating Secretary to the Government of India.

To The Chief Commissioner of Coorg.

Calcutta the 2nd April 1889.

Home Department, Judicial. Sir,

With reference to para 3 of the letter from this Department No. 1866 dated the 28th December last, I am directed to say that the effect of the Succession Certificate act VII of 1889, will, it is believed, be to induce most representatives of deceased persons to take out letters of administration under act V of 1881. I am accordingly to invite attention to the necessity for authorizing all District Courts under this act, to receive applications for Probate

probate and letters of administration, and to request that the needful draft notification may be submitted for the approval of the Governor General in Council under Section [illegible] of the Act.

Yours etc.

(Sd) J. P. Hewett

Offg: Secretary to the Govt of India.

For original please see Serial No. 3 of [illegible]

of Corr. Office

(Copy)

No. 3153-I.

GOVERNMENT OF INDIA.

FOREIGN DEPARTMENT.

NOTIFICATION.

Simla, the 7th August 1889.

Whereas the Governor-General in Council has power and jurisdiction within the Civil and Military Station of Bangalore ; In exercise of such powers and jurisdiction, and of the powers conferred by sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, XXI. of 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to apply the provisions, so far as they may be applicable, of the following enactments to the Civil and Military Station of Bangalore, namely :

The Probate and Administration Act, V. of 1881.

The Probate and Administration Act, VI. of 1889.

The Succession Certificate Act, VII. of 1889.

2. For the purpose of facilitating the application of the provisions of the enactments hereby applied, any Court in the Civil and Military Station of Bangalore may construe them with such alterations, not affecting the substance, as may be necessary or proper to adapt them to the matter before the Court.

3. So much of Foreign Department Notification No. 2252-I., dated 7th August 1883, as extended Act XXVII. of 1860 to the Civil and Military Station of Bangalore is hereby cancelled.

(Sd.) H. M. DURAND,

Secretary to the Government of India.

(True copy)

Wm T. Andrew

Offg. Supdt. Foreign Deptt.

[E. A. D'S.]

G. C. Press, Simla,—No. 426 F. D. 8-8-89—12.

(Copy)

6

No. 3153-I.

GOVERNMENT OF INDIA.

FOREIGN DEPARTMENT.

NOTIFICATION.

Simla, the 7th August 1889.

Whereas the Governor-General in Council has power and jurisdiction within the Civil and Military Station of Bangalore; In exercise of such powers and jurisdiction, and of the powers conferred by sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, XXI. of 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to apply the provisions, so far as they may be applicable, of the following enactments to the Civil and Military Station of Bangalore, namely:

The Probate and Administration Act, V. of 1881.

The Probate and Administration Act, VI. of 1889.

The Succession Certificate Act, VII. of 1889.

2. For the purpose of facilitating the application of the provisions of the enactments hereby applied, any Court in the Civil and Military Station of Bangalore may construe them with such alterations, not affecting the substance, as may be necessary or proper to adapt them to the matter before the Court.

3. So much of Foreign Department Notification No. 2252-I., dated 7th August 1883, as extended Act XXVII. of 1860 to the Civil and Military Station of Bangalore is hereby cancelled.

(Sd.) H. M. DURAND,

Secretary to the Government of India.

No 2853/2089 Dated 23rd August 1889.

A Copy of the foregoing is forwarded to the Civil Judge of the C & M Station of Bangalore, for information with reference to his letter No 845 of the 17th April 1889

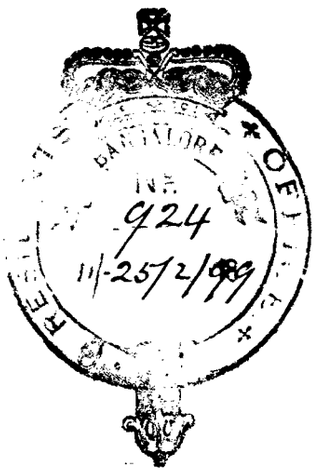
S. No 1.

Asst Resident

[E. A. D'S.]

G. C. Press, Simla.—No. 426 F. D. 8-8-89—12.

P8k.



T—14.

Class. 2 S

INDIAN TELEGRAPH.

Monthly Local No. 79

To

Station

From

Station

Words.	Day.	Hour.	Minute.	Official Instruction.

To (Person)

From (Person)

1

2

3

4

5

6

7

8

9

10

11

12

13

14

Recd. from ? L. N. Sent to L. N.

At Hrs. Mts. By At Hrs. Mts. By

Date *Postmaster.*

T-14

Class. | INDIAN TELEGRAPH. | Monthly Local No.

To
Station

From
Station

Words.	Day.	Hour.	Minute.	Official Instruction.
25	4	12	37	

To (Person)

From (Person)

1
2
3
4
5
6
7
8
9
10
11
12
13
14

Recd. from	L. N.	Sent to	L. N.
At Hrs.	Mts. By	At Hrs.	Mts. By

Date *Postmaster.*

Hampden
6th March 99

My dear Captain Erskine,

Yours DC 9 yesterday in re succession duties -

I have called in the papers and the Undin Secy tells me that, in 1868, when the Inhabitants Act of 1865 was introduced into Mayne Native Christians were exempted from its operation - I do not think there has been any change subsequent to the Abolition - Hindus as well as Native Christians had become to Act 27 of 1860, for obtain

- my Certificates for collection of debts
as Executors. That is the Act
which is still in force in Bengal -
In British India that Act has
been repealed by the Succession
Certificate Act VII of 1889 - Whether the
latter has been applied to the
Civil Courts station or not, I can
not say - S 4 Cl 1 of that Act
provides that a Certificate shall
not be granted thereunder with
respect to any debt or Security
to which a right can be established
by probate or letters of Administra-
tion under the Indian Succession
Act, 1865 - This clause will not

abbf Native Christians in Bengal
including the Civil Mufsl. Station
if they have been exempted
from the provisions of the Indian
Succession Act of 1865 — I will
thank you kindly to let me
know whether, subsequent to
the pendition, the exemption above
referred to has been withdrawn
by any order of Govt of India in
regard Native Xtns in the Cities
of Bangalore. I am not aware
of any such order — Perhaps you
Revd a RC Christian Race will be
able to say definitely — On
hearing from you on this point,
I will send you an official letter

Bryan DO with the Demand if I think, which, the Under Secy tells me, was fixed in the Am late on Saturday and on which Offices are being collected for entry from time to day—

Yr. Sincerely

C. P. Thruston Capt

To Captain R. D. Evans
First and Resident
in Bryan
Ohio

RESIDENT'S OFFICE.

[DRAFT.]—For approval.

Dated 6th March 1899.

Despatched Do

No. 976.

From Bangalore

From First Asst Resident

To Calcutta

To Secretary, Foreign Dept.

OFFICIAL INSTRUCTIONS.

S. Ordinary.

Your telegrams 495 I.A of 22 February and 615 I.A 4th instant.

Native christians in Mysore territories pay succession duty only under Act XXVII of 1860, while in civil and military stations they pay under Act VII of 1889 and V of 1881 as amended by VI of 1889

Your letter 23rd July 1868 not traceable on records Durban asked for copy.

KSE

6/3.

Bangalore
6th March 1899.

GOVERNMENT OF MYSORE

My dear Captain Greene

In continuation of my DO sent this morning I write to say that Govt of India by their Notification of 23rd July 1868, endorsed in letter from the Foreign Secretary of same date, bearing No 205 exempted Native Christians in Mysore from the operation of the Indian Succession Act, 1865, under Section 332. The exemption has not been removed since. Act 27 of 1860 is still in force in Mysore and Certificates are

obtained for collection of debts
on successions thereunder. - Neither
Act VII of 1889 nor V of 1881 has
been extended to Mysore -

The reason why Native Christians
were exempted from the operation
of the Indian Succession Act, 1865 -
is, that a majority of them, who
are Roman Catholics, adhered to
Hindu Customs and usages as
to their rights and interest in, and
their power over, property - There
was a good deal of correspondence
between Mr Waining the then
Chief Com and the Govt of India
on the subject - If necessary copies
could be sent to you - The question
put by the Govt of India in their

RESIDENT'S OFFICE.

Serial No. 1/

File No.

D.O.

[DRAFT].--For approval.

No.

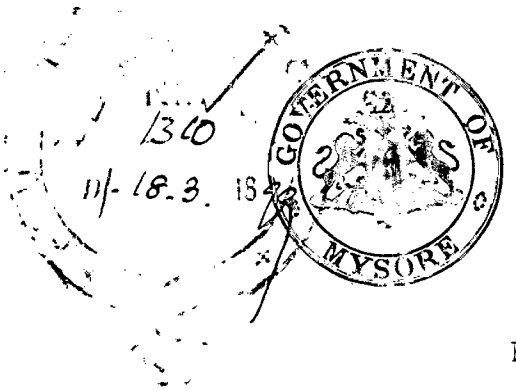
Dated 13th March 1899

With reference to your D.O. dated the 6th instant may I ask you to kindly send a copy of the Foreign ~~Dept~~ Secretary's letter No. 205 dated the 23rd July 1868 to the late Chief Commissioner of Mysore to-gether with Copies of the whole Correspondence that led to the said letter

AR

To J. R. A. Thumboo Chetty Esqre.
First Councillor

F 205
87



Bangalore, 15th March 1869.

My dear Captain Erskine,

As requested in your note of the 13th instant, I send enclosed copies of the correspondence which led to the issue of Foreign Department Notification No. 2[illegible] J. dated 23rd July 1868, extending Act X of 1865 (the Indian Succession Act) to the Territories of Mysore. I have ordered the correspondence to be printed, and will send you a few printed copies when ready.

Yours sincerely,

A. Thumboo Chetty.

Captain K. D. Erskine,

First Assistant Resident.

N° 440.

From.

E. C. Bayley, Esquire
Secretary to the Govt. of India

To.

The Commissioner of Mysore.

Dated Fort William, the 13 January 1866.

Sir,

Home Dept^m.] The Indian Succession Act, Act X. of 1865, came into operation on the first day of January instant. With reference to the provisions of section 259, which treats of the filing and custody of Wills, I am directed by the Governor General in Council to suggest that every District Judge, or Officer exercising equivalent powers (as defined in Section 3 of the Act,) may be provided with an Iron Chest for the safe custody of Wills, and that he may be instructed to place the chest in the Collectorate Treasury of the district under the Treasury Guard. A

Tabular

the use of each of the Deputy Superintendents of Districts with a view to the orders of Government and the provisions of section 259 of the Indian Succession Act X of 1865 being duly carried out.

I have the honor to be
Sir,
Your most obedient servant.
Sd. Chas. B. Saunders.
Judl. Commissioner.

Mysore Commissioner's Office
Bangalore, 6th February 1866

Gl. No 5027
Gol - 123.

To.

The Judicial Commissioner
in Mysore.

Sir,

With reference to your letter No 212 of the 31st ult^o, I am directed by the Commissioner to observe that the Government letter on the subject of the filing and custody of Wills was sent to you for information only

ii The Succession Act has not been extended to Mysore, but should you recommend this being done the question will be laid by the Commissioner before the Government of India.

I have &c.

~~B 5/2/66~~ Sd. T. G. Clarke.

Secretary

No: 225.

Mysore Judicial Commrs Office
Dated Bangalore 20th Feby 1866.

From,

C. B. Saunders Esquire C.B.
Judicial Commr in Mysore.

To,

The Officiating Secretary,
—to the Commrs of Mysore.

Sir,

In reply to your letter Genl No 5027
Judl 123
of the 6th Instant I have the honor to inform you that I consider it to be highly advisable that the Provisions of the Succession Act X of 1865 should be extended to the Mysore Territory.

Coorg being a British Province, the Act which is applicable to all British India must be considered to have been already extended thereto

from

would be regarded by such Communities.

I have &c
Sd. J. G. Blunkie
Secretary.

No. 123.

Mysore Judicial Commr's Office.

Bangalore, 4th September 1866.

From

C. B. Saunders Esq. C. B.
Judicial Commissioner

To.

The Secretary to the Commissioner.

Sir.

Adverting to your letter Jl. No. 5430 / Jl. 138 of the 28th February 1866 on the subject of extending the provisions of Act X of 1866, entitled the Indian Succession Act to the Provinces of Mysore and Coorg, I have the honor to state that in furtherance of the wishes of the Commissioner, as conveyed in the above letter, I deemed it advisable to issue Circular Instructions (Copy of which is enclosed) to the several Divisional Superintendents to place themselves in communication with their Deputy Superintendents with a view to their taking such steps as would enable them to obtain the sense

subvert their social and domestic
ties and cause endless strifes and
dissensions between themselves and
their heathen relations, by the destruction
of that feeling of Nationality, and
Conformance to all Civil Forms
and Usages which they are under-
-stood generally to have been enabled
to maintain inviolate notwithstanding
their Conversion to the Christian
~~Reg~~ Religion. As this Class of the
Community may therefore in a Social
and Judicial though not in a Religious
point of view be regarded in the
same aspect as their Hindu brethren,
amenable Civilly to all the obligations
and requirements of the Hindu Law
and entitled to all its benefits and
privileges, I am fully prepared to
admit that the exemption claimed
by them is based on sufficient
and valid grounds, and ought,
in all propriety and in Consideration
to

to their feelings to be allowed. I am not aware whether the same objection is entertained by the Native Roman Catholics of Upper India to the provisions of the Succession Act which has been expressed by those of Southern India, but I am certainly of opinion that it is advisable that the views which have been so fully and ably detailed in their behalf by the Right Revd. Dr. Charbonneaux the Bishop of Jassan and the other Revd. Gentleman should be laid before the supreme Government with a view to the same being made, if considered necessary, the foundation of Exceptional Legislation in regard to making the provisions of the Succession Act inapplicable to this Class of Native Christians.

4. But in respect, on the other hand, to the Native Protestant Christians, it will be seen that this Class, in embracing the Christian Religion, have

have any reasonable grounds to claim the right of exclusion from the Operation of the Succession Act.

7. In respect of the Province of Coorg however, I would draw the attention of the Commissioner to the accompanying letter in original from the Superintendant, Captain Cole, wherein that Officer has shewn that the Laws which regulate the right of Inheritance and Succession in Coorg, though in many features Conformable to the Provisions of the Hindu Law, yet contain many traditional Usages and distinctions peculiar to the inhabitants and which this singular race of people have pertinaciously maintained through a long succession of years, I may therefore Confidently state that any attempt to make the provisions of the Succession Act applicable to their Case would be regarded by them as a direct invasion

of—

of their national rights and privileges.

8. With reference to Captain Cole's remarks, I need hardly say that I never had any intention of recommending that the Coorgs, as a race should be made amenable to the provisions of the Succession Act inasmuch as they are, to all intents and purposes Hindus and consequently specially exempted from its Operation, but I see no objection to the Act being formally extended to the Province of Coorg but rendered applicable only to European and Native Christians other than of the Roman Catholic faith and to other portions of the community not being actual Coorgs or specially excluded by the provisions of the Act.

I have &c

Esq. Chas: B. Saunders.
Judicial Commissioner

the new Indian Succession Act meets with amongst the Native Catholics of this Province, forgive me for the manner and the matter, I am not an English Scholar.

I will first expose the fact which seems to be quite unknown to the Government and the Legislative Council and which is the fundamental Cause of all the difficulties that Special Legislation for Native Christians will, in almost Every Case, have to encounter in this Country. The social state of the Native Catholics in the Deccan East of the Ghâts is completely different from that of their Catholic brethren of the Western Coast and northern India. These last have laws and customs of their own and are quite separated from their heathen neighbours, while on the -

Contrary

so, and are accepted by all to be so with the rank and rights of these respective Castes.

Now this fundamental fact once explained, it is easy to understand why and wherefore Native Catholics, as a body are opposed to that new law as well as to any other legislation Special intended for them and making them a distinct and separate class.

The Indian Succession Act, if, enforced on Native Catholics will at once bring on their Complete ruin, cause amongst them quite a revolution by upsetting and overthrowing all their family customs and occasion interminable practical difficulties.

1st. The enforcement of the

new

or daughter of those uncles or aunts. But amongst the Hindus there is a vast difference, the father's brothers is according to his relative age elder father పెద్ద తండ్రి or younger father చిన్న తండ్రి in the same way the mother's sister is a mother if elder, called elder mother పెద్ద తల్లి if younger చిన్న తల్లి and their children are not Cousins but brothers and sisters who can never intermarry, and are joint heirs పెద్ద అన్న చిన్న తమ్ముడు.

On the contrary, the father's sister and mother's brother are not Uncle and Aunt, but are called step-father or step mother సవతి తండ్రి - సవతి తల్లి ఇద్దరు, for that they mutually call their children son or daughter-in-law because such

children

widows without children, the right of being maintained and supported by their brothers, wherein often they exercise their chief authority and finally they have what I may call a negative part which in many cases is a very important one, they are not responsible for their fathers' debts.

I do not speak of the adoption of a daughter as a male heir called ಮಗಳು ಮಕ್ಕಳು) nor that of a son-in-law which is called ಅಳಿಯ ಅಳಿಯಂದಿರು).

(c) Children being married as a rule when yet minors, they continue to live with their parents and all working for the common stock and good, the mother keeping authority over all her step daughters and in the majority of cases this Community is not broken by

which is the most Common inheritance.

I am not in any way pleading for, or against, such a system - I merely state it as such is at least in this part of the Country, the Hindu law and consequently the law of the Native Catholics.

Moreover, I may remark by the way that daughters are not absolutely deprived of any part of their father's property. They have what is given to them on the occasion of their marriage, as a dowry or presents in jewels, Coins, &c. they have what is given to them at their different visits to the paternal home, which are frequent and for several months. They have when

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Countless practical difficulties it will produce endless law suits and quarrels, such as have new rights of inheritance will very naturally prefer their claims only when there shall be some things to be gained by it, and the other heirs will have to bring them to the Courts to get them condemned to take apart of their debts, and reciprocally.

As regards the beneficial inventure that is the non-liability to debts beyond assets descended, I must say that is unknown amongst the native Christians: should any one lay such a claim, he ought to proclaim that he is not the lawful son of his father. But no honorable Indian will inflict with such an injury the memory of his father.

father - Poor borrowers in India have no other caution or mortgage but their sons.

Besides, what shall be the law in the case of apostacy, when a man after having been baptized, returns to heathenism? What, in the case of one part only of the family being baptized? What, when half the children are Christians and the other heathens? or in legal phraseology when half the children are Hindus and the others not? You may see the inconvenience of such exceptional law.

So much for this one of some other Clauses of the Act quite at variance with Hindu Customs.

As for the objection that

the

it would only lower them in the eyes of their Countrymen and pave the way to their utter ruin.

Another consideration on which I beg to call your attention and which, though belonging to a higher and quite distinct order of things, is not foreign to the subject is this. The tendency which the Government of India has shown of late, in different Acts of the Legislature to sever the Native Christians from their Countrymen, to set them apart as a distinct people to assimilate them as much as possible to the European and Eurasian population will certainly prove disastrous to the Christian

Christian religion, and prevent
Conversions to any extent; since
hereafter to the Hindu the
question will not be: is the
Christian religion true? but
it will be: shall I give up
my pedlo and caste and
turn a Feringhee. But every
one knows that an Hindu
will sacrify his life, his house,
his wealth, and his life, but
his caste? never.

Government of course
have nothing to do directly
in the matter of the Conversion
of India but they are bound,
I think, not to add new
obstacles and hindrances
to the too many that
already

Mysore Commissioner's Office
Bangalore, 8th September 1866.

Genl. No. 2828
Judicial 47.

From

L. Bowring Esquire.
Commissioner of Mysore.

To

The Secretary to the Government of India
Home Department.

Sir,

Previous to laying before Government the question of the extension of the Succession Act X of 1865 to Mysore and Coorg, which has been referred to in former correspondence[x] it appeared to me desirable that full enquiry should be made under section 332 of the Act, whether any exemptions are required either in Mysore or Coorg as both provinces contain a large number of Native Christians whose views concerning the extent to which the community would be affected by the provisions of the Act (1) are deserving of consideration and attention. (2)

2. The Judicial Commissioner to whom the enquiry was referred has obtained the opinions of the Superintendents of Divisions and Deputy

[x] from Secretary to Govt of India, Home Department, No. 40. 13th January 1866.

Superintendents of Districts, and the latter have with their reports submitted communications from the persons most competent to ascertain and express the wishes of the native communities viz the Catholic Bishop of Mysore and several of the Priests and the Missionaries of the Wesleyan London and German Missionary Societies.

3. It will be seen from the letter of the Judicial Commissioner* (copy of which is enclosed) that he considers that the native Roman Catholic Christians have strong grounds for claiming exemption from the application of the Act since they may in a social and judicial, though not in a religious point of view be regarded as Hindoos, and as such may with justice object to the enactment in question as tending to the subversion of the social and domestic ties and to the creation of dissention between themselves and their heathen relatives

* Gl 123. 4th September 1866

4. In the view taken by the Judicial Commissioner, I quite concur for, whatever may be disadvantages of existing customs among the Catholic Christians of Mysore and Coorg, there can be no doubt that they cling to them with tenacity and that any action on the

part

No. 461/60 dated 17th June 1868.

From

The Officiating Judicial Commr.
in Mysore

To

The Secretary to the Commr.
in Mysore

Sir,

I belive that the Commissioner is aware that the Judicial Commissioner has for more than two years exercised testamentary jurisdiction in Mysore, following the provisions of the Indian Succession Act. The practice was initiated by Mr. Saunders before my first arrival in Mysore, and has been followed by me as his locum tenens.

2. But I apprehend that difficulties may possibly arise as to the rights of parties concerned, from the circumstance that the Indian Succession

Act

Act has never been formally introduced into Mysore.

3. The large and increasing number of European and East Indian residents in different parts of the Province, renders it highly desirable that the Law in which regulates testamentary procedure in relation to their estates, should be firmly established.

4. I have therefore the honor to suggest, for the consideration of the Commissioner, that His Excellency the Governor General in Council may be solicited to remove all doubts on the subject by formally extending the operation of the Indian Succession Act (X of 1865) to the Province of Mysore.

I have &c.

Sd. J R. Kindersley

Officiating Judl: Commr.

No: 536/64 dd 25th June 1868.

From.

J. R. Kindersley Esquire
Officiating Jud: Commr:
in Mysore.

To. The Secretary to the Commissioner
of Mysore.

Sir,

I have the honor to acknowledge
the receipt of your letter No: 1731/44 of the
23rd instant, drawing my attention to
correspondence relating to the Indian
Succession Act, which took place before
my first arrival in Mysore, and of which
I was not cognizant.

2. The general feeling among Native
Christians in Mysore, appears to have
been adverse to the introduction of
the Succession Act. I am not aware
of -

of the reasons which may have weighed with the Rt. Hon. the Governor General's Council for making laws and regulations, in overruling any objections which may have been made to the Act by Native Christians in H. M. Territories. But I think that there is a good deal to be said on both sides. The provisions of the Act are in the abstract fair and reasonable, and there is some inconvenience in maintaining in Mysore a rule of Succession different from that which obtains in the surrounding provinces, with which there is constant communication. It is likely to lead to such questions of domicile as have given rise to much litigation in England.

3 On the other hand, it would be a violent measure, and necessarily productive of hardship in the outset to alter the rule of succession of a

numerous

Mysore Commissioner's Office
Bangalore, 30th June 1868.

General No. 1874 / Judicial 81 } 1868-69.

To

The Secretary to the Government of India
Foreign Department
Simla.

Sir,

With reference to my letter No. 2828/47 of the 8th September 1866, Home Department, I have the honor to submit, for the information of His Excellency the Viceroy and Governor-General of India in Council, the accompanying copy of a letter No. 526/64 of the 25th June 1868, from the Officiating Judicial Commissioner in Mysore, and to solicit the favor of early orders being passed for the introduction of the Indian Succession Act X of 1865, into the Provinces of Mysore and Coorg, with special exemption from its provisions of those sections of the Community referred to in my letter above quoted to which no reply has hitherto been received.

I have etc,
(sd) L. Bowring
Commissioner.

No. 205

From

The Officiating Secretary to the
Government of India.

To

The Commissioner of Mysore.

Dated Simla, the 23rd July 1868 Foreign Department
Judicial.

Sir,

The enclosed Notifications will show you the action which His Excellency the Viceroy and Governor General in Council has directed me to take on your letter No. 1874/81 dated 30th June.

2. As Coorg is British Territory Act X of 1865, applies of its own force to that Province.

I have &c

(sd) C. U. Aitchison
Offg Secretary to the
Government of India.

Simla.
Foreign Department
the 23rd July 1868.

No. 203. Judicial.

Notification.

His Excellency the Viceroy and Governor-General in Council is pleased to extend Act X of 1865 (The Indian Succession Act) to the Territories of Mysore.

FEUILLETS OFFICIELS BANGALORE No. 1672 Dt. 10-4-1899

Bangalore

8/4/99.

Dear Sir,

In continuation of Mr. Thumboo Chetty's D.O. dated 15th March 1899, to your address, I am desired to forward herewith 10 printed copies of the correspondence relating to to the extension of Act X of 1865 (the Indian Succession Act) to the territories of Mysore.

I remain,
Dear Sir,
Yours truly,

Captain K.D.Erskine,
First Asst. Resident.

PAPERS RELATING TO THE INTRODUCTION INTO THE MYSORE STATE OF THE INDIAN SUCCESSION ACT X OF 1865.

I

Letter No. 440, *dated Fort William, the* 13*th January* 1866, *from E. O. Bayley, Esq., Secretary to the Government of India, Home Department, to the Commissioner of Mysore.*

The Indian Succession Act, X of 1865, came into operation on the first day of January instant. With reference to the provisions of Section 259, which treats of the filing and custody of wills, I am directed by the Governor-General in Council to suggest that every District Judge, or Officer exercising equivalent powers, (as defined in Section 3 of the Act,) may be provided with an iron chest for the safe custody of wills, and that he may be instructed to place the chest in the Collectorate Treasury of the District under the Treasury Guard. A tabular statement should be furnished showing the probable cost of the arrangement, in order that the necessary funds may be provided, should no money be available for this purpose, from other heads in the Budget for 1865-66.

General No. 4778—*D.* 647, *dated* 27*th January* 1866.

Copy forwarded to the Judicial Commissioner in Mysore for information.

II

Letter No. 212, *dated Bangalore,* 31*st January* 1866, *from C. B. Saunders, Esq., C.B., Judicial Commissioner in Mysore, to the Secretary to the Commissioner of Mysore.*

With reference to your Docket Gl. No. 4778—Docket 647, of the 27th instant, giving cover to copy of a letter No. 440, dated the 13th January 1866, from the Secretary to the Government of India, on the subject of the filing and custody of wills, I have the honor to inform you that I am of opinion that it will be advisable that an iron chest should be supplied for the use of each of the Deputy Superintendents of Districts with a view to the orders of Government and the provisions of Section 259 of the Indian Succession Act No. X of 1865 being duly carried out.

III

Docket General No. 5027—*Jl.* 123, *dated Bangalore,* 6*th February* 1866, *from the Secretary to the Commissioner of Mysore, to the Judicial Commissioner in Mysore.*

With reference to your letter No. 212 of the 31st ultimo, I am directed by the Commissioner to observe that the Government letter on the subject of the filing and custody of wills was sent to you for information only.

ii. The Succession Act has not been extended to Mysore, but should you recommend this being done, the question will be laid by the Commissioner before the Government of India.

IV

Letter No. 225, *dated Bangalore,* 20*th February* 1866, *from C. B. Saunders, Esq., C.B., Judicial Commissioner in Mysore, to the Officiating Secretary to the Commissioner of Mysore.*

In reply to your letter Genl. No. 5027—Judl. 123 of the 6th instant, I have the honor to inform you that I consider it to be highly advisable that the provisions of the Succession Act No. X of 1865 should be extended to the Mysore Territory.

Coorg being a British Province, the Act, which is applicable to all British India, must be considered to have been already extended thereto from the 1st

January of the present year; but I deem it to be desirable that a notifica to that effect should be authoritatively communicated to the Superintend of Coorg for his information and guidance under the orders of the Commissio

V

Docket General No. 5430—*Judl.* 138, *dated Bangalore, 28th February* 1866, *from the Secretary to the Commissioner of Mysore, to the Judicial Commissioner in Mysore.*

With reference to your letter No. 225, dated 21st instant, recommending that the provisions of the Succession Act X of 1865 may be extended to Mysore, I am directed to state that, prior to laying the question before the Government of India, it appears to the Commissioner desirable that full enquiry should be made under Section 332 of the Act whether any exemptions are required either in Mysore or in Coorg.

2. The Commissioner observes that a large number of Native Christians would be affected by the extension of the Act to Mysore, and considers that it would be useful to know how its provisions would be regarded by such communities.

VI

Letter No. 123, *dated Bangalore, 4th September* 1866, *from C. B. Saunders, Esq., B. B., Judicial Commissioner of Mysore, to the Secretary to the Commissioner of Mysore.*

Adverting to your letter Genl. No. 5430—Gl. 138 of the 28th February 1866, on the subject of extending the provisions of Act X of 1865, entitled the Indian Succession Act, to the Provinces of Mysore and Coorg, I have the honor to state that, in furtherance of the wishes of the Commissioner, as conveyed in the above letter, I deemed it advisable to issue circular instructions (copy of which is enclosed) to the several Divisional Superintendents to place themselves in communication with their Deputy Superintendents with a view to their taking such steps as would enable them to obtain the sense of all sections of the community interested in the measure in regard to the introduction of the above Act, and also to ascertain from all available sources whether any particular tribe, sect or race would wish to be specially exempted from the operation of its provisions. Being now in possession of the several communications addressed to this office on the above subject by the different Superintendents, giving cover to the reports submitted by the Deputy Superintendents, with their respective enclosures, I have accordingly the honor to forward the same in original for the information and consideration of the Commissioner.

2. It will be observed that as the Act itself contains a clause exempting the Mahomedans, Hindus and Buddhists from the operation of its provisions, the present enquiry was, of necessity, chiefly directed towards ascertaining the views and feelings of that portion of the Native community who have embraced the Christian faith, and who would be principally affected by the extension of the said Act into this Province. In reviewing the result of these enquiries in respect to this class, it will be more convenient, for the purposes of the present reference, to consider the question as bearing on those of the Roman Catholic persuasion as distinguished from those of the Protestant faith, inasmuch as these two sections of the community have expressed opinions entirely at variance with each other.

3. In regard firstly to the Native Roman Catholic Christians, it will be perceived that the majority, if not the whole of them, concur in strongly deprecating the application in their case of the above legislative enactment, as having a direct and unmistakeable tendency to subvert their social and domestic ties and cause endless strifes and dissensions between themselves and their heathen relations, by the destruction of that feeling of nationality, and conformance to all civil forms and usages which they are understood generally to have been enabled to maintain inviolate notwithstanding their conversion to the Christian religion. As this class of the community may therefore, in a social and judicial though not in a religious point of view, be regarded in the same aspect as their Hindu brethren, amenable civilly to all the obligations and requirements of the Hindu law and entitled to all its benefits and privileges, I am fully prepared to admit that the exemption claimed by them is based on sufficient and valid grounds, and ought, in

all propriety and in consideration to their feelings, to be allowed. I am not aware whether the same objection is entertained by the Native Roman Catholics of Upper India to the provisions of the Succession Act which has been expressed by those of Southern India; but I am certainly of opinion that it is advisable that the views which have been so fully and ably detailed in their behalf by the Right Reverend Dr. Charbonnaux, the Bishop of Jassan, and the other reverend gentlemen, should be laid before the Supreme Government with a view to the same being made, if considered necessary, the foundation of exceptional legislation in regard to making the provisions of the Succession Act inapplicable to this class of Native Christians.

4. But in respect, on the other hand, to the Native Protestant Christians, it will be seen that this class, in embracing the Christian religion, have avowedly renounced all social or civil connection with their heathen relatives and are not even admitted to the general provisions of the Hindu law, while experience has shown that the absence of any specific rules or legislative enactment, to guide the Law of Intestate or Testamentary Succession amongst them as exemplified in the recent somewhat notorious Abraham Case, has been productive of serious doubts and difficulties. This section of the community are therefore ready and willing to accept and appreciate the advantages which will undoubtedly be secured to them by the extension of the above Act, and will hail with satisfaction its introduction into the Province of Mysore.

5. Under any circumstances, it appears to me to be very undesirable that the European inhabitants of these Provinces should be deprived of the privileges and benefits conveyed in the provisions of this Act, by reason of its not being specially extended to this part of the country, and I would therefore recommend for the consideration of the Commissioner the desirability of moving the Supreme Government to extend the provisions of the Indian Succession Act to this Province, reserving however to the Native Roman Catholic Christians the right to that exclusion which they apparently earnestly desire, and to which, in my opinion, they are ligitimately entitled.

6. With this exception, and irrespective of Hindus and Mahomedans who are specially exempted, I am not aware that any other sect, caste or tribe in Mysore have any reasonable grounds to claim the right of exclusion from the operation of the Succession Act.

7. In respect to the Province of Coorg, however, I would draw the attention of the Commissioner to the accompanying letter in original from the Superintendent, Captain Cole, wherein that officer has shown that the laws which regulate the right of Inheritance and Succession in Coorg, though in many features conformable to the provisions of the Hindu law, yet contain many traditional usages and distinctions peculiar to the inhabitants, and which this singular race of people have pertinaciously maintained through a long succession of years. I may therefore confidently state that any attempt to make the provisions of the Succession Act applicable to their case would be regarded by them as a direct invasion of their national rights and privileges.

8. With reference to Captain Cole's remarks, I need hardly say that I never had any intention of recommending that the Coorgs as a race should be made amenable to the provisions of the Succession Act, inasmuch as they are to all intents and purposes Hindus, and consequently specially exempted from its operation; but I see no objection to the Act being formally extended to the Province of Coorg, but rendered applicable only to Europeans and Native Christians other than of the Roman Catholic faith, and to other portions of the community not being actual Coorgs or specially excluded by the provisions of the Act.

(Enclosure.)

Circular No. 64, *dated Bangalore, 6th March* 1866, *from C. B Saunders, Esq., C.B., Judicial Commissioner of Mysore, to the Superintendents of Divisions and Coorg.*

I have the honor herewith to forward copies of correspondence noted in the margin, and to request you will be good enough, with reference to the Commissioner's suggestions, to make full enquiries through your District Officers as to whether there appears to be any necessity to make any special exemption in favor of any race, sect or tribe in Mysore for which the Succession Act do not, as passed at present, provide.

To Secy., dated 21st February 1866, No. 225.
From Secy., dated 28th Feb. 66, Genl. No. 5430—138.

The views on the subject entertained by the different communities, including the Native Christians specially referred to by the Commissioner, and excluding Hindus, Mahomedans or Buddhists, to whom the provisions of the Act do not apply, should, as far as may be practicable, be ascertained and reported for the information of the superior authority.

(Enclosure.)

Letter dated Bangalore, 21st April 1866, from the Right Reverend E. L. Charbonnaux, Bishop of Jassan, V. A. of Mysore and Coorg, to the Judicial Commissioner of Mysore.

I have the honor to send you the copy of the explanations given by me to Captain Benson concerning the opposition which the new Indian Succession Act meets with amongst the Native Catholics of this Province. Forgive me for the manner and the matter, I am not an English scholar.

I will first expose the fact which seems to be quite unknown to the Government and the Legislative Council, and which is the fundamental cause of all the difficulties that special legislation for Native Christians will in almost every case have to encounter in this country. The social state of the Native Catholics in the Deccan, east of the Ghats, is completely different from that of their Catholic brethren of the Western Coast and Northern India. These last have laws and customs of their own and are quite separated from their heathen neighbours; while on the contrary the four hundred thousands Catholics (1) who are in the Deccan east of the Ghats belonging mostly to the Tamil, Canarese and Telugu nations, have never given up their nationality, and to this day remain civilly Hindus to all intents and purposes. They have kept of their caste rights, uses and practises whatever does not disagree with the profession of their Christian faith. They follow the laws and customs of their countrymen in everything not contrary to religion, and consequently in matters of inheritance, testament, successions, and as well as in others. They have done so for more than two hundred years. and are resolved to do the same as long as their other countrymen, and the consequence is that they have everywhere conserved their social rank, they continue to mix with their countrymen, and the heathen at large have long admitted that to be a Catholic is not necessarily to be an outcast, a Pariah or a Feringhee as in the Bengal, where they are called Back Portuguese.

(1) Besides the hundred thousand or more of Pariahs and those of the left hand.

I have not here to discuss and justify this system, I merely state a fact. The Native congregations of Southern India have been founded on the principle that to be baptized, a man needs not renounce his own caste and nationality, so that though they are not Hindus, if the word be used in a religious sense, if on the contrary it is used in its natural and geographical sense, they are Hindus as well as their countrymen. They have always been so, and are accepted by all to be so, with the rank and rights of their respective castes.

Now this fundamental fact once explained, it is easy to understand why and wherefore Native Catholics as a body are opposed to that new law as well as to any other legislation specially intended for them, and making them a distinct and separate class.

The Indian Succession Act, if enforced on Native Catholics, will at once bring on their complete ruin, cause amongst them quite a revolution by upsetting and overthrowing all their family customs, and occasion interminable practical difficulties,

First, the enforcement of the new law would cause the utter ruin of Native Catholics, because the very day they follow those new civil regulations radically different from the laws and customs of their countrymen, every bond of relationship and kindred with the heathen members of their families is broken at once; they will be thrown out of their caste, and as the great majority of them are poor farmers or day laborers, (1) out of their village and farms by the heathen land holders. They will be treated as Pariahs and foreigners, and every one who knows some things of India knows what this implies in the case of the poor and weak.

(1) Chiefly in the Carnatic and Tanjore.

It will cause a complete revolution amongst them, in some cases giving heir rights to such who never had any before, in others depriving of their rights those who have ever enjoyed them, in some cases enforcing on them a new state of society only because they are Christians. I must here enter into particulars.

(*a*) As you well know, dear sir, the genealogical order established by the new law is quite contrary to the one in use in India. The very names of uncles, aunts, cousins, etc., do not exist in the languages of this country. The law according to the use of European nations calls uncles the father's as well as mother's brother, aunt the mother's as well as the father's sister, and cousins the son or daughter of those uncles or aunts. But amongst the Hindus there is a vast difference, the father's brother is according to his relative age elder father ದೊಡ್ಡಪ್ಪ or younger father ಚಿಕ್ಕಪ್ಪ. In the same way the mother's sister is a mother, if elder called elder mother ದೊಡ್ಡಮ್ಮ, if younger ಚಿಕ್ಕಪ್ಪ, and their children are not cousins but brothers and sisters who can never intermarry and are joint heirs ದಾಯಾದ್ಯರು.

On the contrary, the father's sister and mother's brother are not uncle or aunt but are called step-father or step-mother ನೋದರಮಾವನು ನೋದರತೆ for that they mutually call their children son or daughter-in-law because such children ought to intermarry. So such children are not brothers as in the first class and of course are not joint heirs.

(*b*) The law enforces equal partage between brothers and sisters giving heir rights to the daughters as well as to the sons. This is an innovation that upsets all the economy of the Hindu family, which is founded on this principle, that an heir must keep the lamp of his father's house, that is to say, he must perpetuate his name and continue his profession; but girls being married at an early age do belong after no more to their father's but to their husband's family. They therefore have neither rights to their father's property, nor are they also responsible to their debts which is the most common inheritance.

I am not in any way pleading for or against such a system. I merely state that such is, at least in this part of the country, the Hindu law, and consequently the law of the Native Catholics.

Moreover, I may remark by the way, that daughters are not absolutely deprived of any part of their father's property. They have what is given to them on the occasion of their marriage, as a dowry or presents in jewels, cows, etc.; they have what is given to them at their different visits to the paternal home, which are frequent and for several months; they have, when widows without children, the right of being maintained and supported by their brothers, wherein often they exercise the chief authority; and finally they have what I may call a negative part, which in many cases is a very important one; they are not responsible for their father's debts.

I do not speak of the adoption of a daughter as a male heir called ಪುತ್ರಿಕಾಪುತ್ರ nor that of a son-in-law which is called ಮನೆ ಅಳಿಯತನವು

(*c*) Children being married as a rule when yet minors, they continue to live with their parents, and all working for the common stock and good, the mother keeping authority over all her step-daughters, and in the majority of cases this community is not broken by the parent's death, but things go on as before, the eldest brother taking the place and the authority of the father, and his wife that of the mother. Now the communion of goods is quite overthrown by the new law, and the old family habits become impossible.

Now, how could a father allow his sons, or an elder brother his young brothers, to be implicated in the debts of their father-in-law?

Moreover, do you think that after having worked hard alone to increase or to create their family property or to pay off the debts of their father, the brothers will allow their sisters, who left them at an early age, to transfer to another ಗೋತ್ರ a share of their own property?

I have said also that the Act will occasion countless practical difficulties, it will produce endless law suits and quarrels; such as have new rights of inheritance will very naturally proffer their claims only when there shall be some things to be gained by it, and the other heirs will have to bring them to the Courts to get them condemned to take a part of their debts, and reciprocally.

As regards the *Beneficed inventure*, that is, the non-liability to debts beyond assets descended, I must say that is unknown amongst the Native Christians: should

any one lay such a claim, he ought to proclaim that he is not the lawful son of his father. But no honorable Indian will inflict, with such an injury, the memory of his father. Poor borrowers in India have no other caution or mortgage but their sons.

Besides, what shall be the law in the case of apostacy, when a man, after having been baptized, returns to heathenism? What, in the case of one part only of the family being baptized? What, when half the children are Christians and the other heathens? or in legal phraseology, when half the children are Hindus and the others not? You may see the inconvenience of such exceptional law.

So much, for there are some other clauses of the Act quite at variance with Hindu customs.

As for the objection that the Act has been promulgated in the Madras Presidency, and has not caused such a trouble as I here indicate, that the Native Christians have not protested, nor petitioned against it, my answer is this. The Act has been promulgated throughout the Madras Presidency, but it is a dead letter; it lies buried in some number of the official gazette: but things are going on the same way they did before, and nobody has ever tried to enforce the new law. Why did not Native Christians protest and petition against it? Because the immense majority of them are villagers who are quite ignorant of what is going on in the world around, and do not suspect in any way the existence of such a law. Even if they did, what more could they take, their circumstances being what they are? We are not here in England, and it will take centuries before people are brought to know their rights and to stand by them.

When finishing the brief statement of the case, I must say most distinctly that I give full credit to the liberal intentions of the legislators. They certainly imagined that by such a law they were promoting the interest of Native Christians and raising them to a higher social state; that they were putting them, as it were, on a footing of equality with the dominant race; but the fact is that it would only lower them in the eyes of their countrymen and pave the way to their utter ruin.

Another consideration on which I beg to call your attention, and which, though belonging to a higher and quite distinct order of things, is not foreign to the subject, is this. The tendency which the Government of India has shown of late, in different Acts of the Legislature, to sever the Native Christians from their countrymen, to set them apart as a distinct people, to assimilate them as much as possible to the European and Eurasian population, will certainly prove disastrous to the Christian religion, and prevent conversions to any extent; since hereafter to the Hindu the question will not be: Is the Christian religion true? but it will be: Shall I give up my people and caste and turn a Feringhee? But everyone knows that an Hindu will sacrify his kins, his house, his wealth, and his life, but his caste? Never.

Government of course have nothing to do directly in the matter of the conversion of India, but they are bound, I think, not to add new obstacles and hindrances to the too many that already exist. Let the Native Christians follow their national customs as long as their countrymen will enjoy such freedom. They ask for no more but for no less.

VII

Letter Genl. No. 2828—Judicial 47, dated Bangalore, 8th September 1866 from L. Bowring, Esq., Commissioner of Mysore, to the Secretary to the Government of India, Home Department.

Previous to laying before Government the question of the extension of the Succession Act X of 1865 to Mysore and Coorg, which has been referred to in former correspondence,* it appeared to me desirable that full enquiry should be made under Section 332 of the Act, whether any exemptions are required either in Mysore or Coorg, as both provinces contain a large number of Native Christians whose views concerning the extent to which these communities would be affected by the provisions of the Act, are deserving of attention and consideration.

* From Secretary to Govt. of India, Home Department, No. 440, dated 13th January 1866, etc.

2. The Judicial Commissioner, to whom the enquiry was referred, has obtained the opinions of the Superintendents of Divisions and Deputy Superintendents of

Districts, and the latter have with their reports submitted communications from the persons most competent to ascertain and express the wishes of the Native communities, *viz.* the Catholic Bishop of Mysore and several of the Priests, and the Missionaries of the Wesleyan, London and German Missionary Societies.

3. It will be seen from the letter of the Judicial Commissioner * (copy of which is enclosed) that he considers that the Native Roman Catholic Christians have strong grounds for claiming exemption from the application of the Act, since they may, in a social and judicial though not in a religious point of view, be regarded as Hindus, and as such may with justice object to the enactment in question as tending to the subversion of their social and domestic ties, and to the creation of dissension between themselves and their heathen relatives.

* G. No. 123, dated 4th September 1866.

4. In the view taken by the Judicial Commissioner, I quite concur: for whatever may be the disadvantages of existing customs among the Catholic Christians of Mysore and Coorg, there can be no doubt that they cling to them with tenacity, and that any action on the part of Government tending to reverse them would be regarded with disfavor and produce a bad feeling.

5. The general opinion of all the experienced officers who have been consulted appears to support this view; but as it is unnecessary to trouble the Government with all the reports received on the subject, it will suffice to submit the enclosed copy of a letter† from Bishop Charbonnaux who, from long residence in this Province and his intimate acquaintance with the usages and wishes of the Native Christians, is peculiarly fitted to pronounce an opinion on it. I therefore consider that the Native Catholic Christians of Mysore and Coorg should, under Section 332, be exempted from the operation of the Act; but concur in the recommendation of the Judicial Commissioner that its provisions may, with this reservation, be beneficially extended to Mysore.

† Dated 21st April 1866.

6. The Judicial Commissioner in the concluding paras of his letter has referred to Coorg. The Coorgs are Hindus by race, and it may therefore be questioned whether any special notice of them is needed; but should any doubt exist regarding their amenability to the Act, they may also by exempted from its provisions. As bearing on the question generally, the letter of the Superintendent of Coorg is also enclosed,‡ regarding which it is only necessary to add that the views of the Catholic Priest at Mercara are in accordance with those of Bishop Charbonnaux whose arguments are applicable to Coorg equally with Mysore, the former Province being also under his spiritual direction.

‡No. 336, dated 25th June 1866.

VIII

Letter No. 461-60, *dated* 17*th June* 1868, *from J. R. Kindersley, Esq., Officiating Judicial Commissioner of Mysore, to the Secretary to the Commissioner of Mysore.*

I believe that the Commissioner is aware that the Judicial Commissioner has for more than two years exercised testamentary jurisdiction in Mysore, following the provisions of the Indian Succession Act. The practice was initiated by Mr. Saunders before my first arrival in Mysore, and has been followed by me as his *locum tenens.*

2. But I apprehend that difficulties may possibly arise as to the rights of parties concerned, from the circumstance that the Indian Succession Act has never been formally introduced into Mysore.

3. The large and increasing number of European and East Indian residents in different parts of the Province renders it highly desirable that the law, which regulates testamentary procedure in relation to their estates, should be firmly established.

4. I have therefore the honor to suggest, for the consideration of the Commissioner, that H. E. the Governor-General in Council may be solicited to remove all doubts on the subject by formally extending the operation of the Indian Succession Act (X of 1865) to the Province of Mysore.

IX

Letter General No. 1731—*Judicial* 44, *dated Bangalore, 23rd June* 1868, *from the Secretary to the Commissioner of Mysore, to the Officiating Judicial Commissioner in Mysore.*

In acknowledging the receipt of your letter No. 461—60 of the 17th instant, requesting that the Government of India may be moved to extend the Indian Succession Act X of 1865 to Mysore, I am directed by the Commissioner to draw your attention to Mr. Saunders' letter No. 25 of the 4th September 1866, and previous correspondence on the subject, and to forward for your information the accompanying copy of a letter No. 2523—47 of the 8th idem to the Government of India, from which you will observe that the extension of the Act in question to this Province, with special exemption from its provisions of certain sections of the community, has been already requested. As no reply has however been received to this application, the Commissioner purposes to address the Government again on the subject, but before doing so he would be glad to know if you wish to add anything to the previous correspondence.

2. The original enclosures of Mr. Saunders' letter above quoted are herewith returned.

X

Letter No. 536-64, *dated 25th June* 1868, *from J. R. Kindersley, Esq., Officiating Judicial Commissioner of Mysore, to the Secretary to the Commissioner of Mysore.*

I have the honor to acknowledge the receipt of your letter No. 1731-44* of the 23rd instant, drawing my attention to correspondence relating to the Indian Succession Act, which took place before my first arrival in Mysore, and of which I was not cognizant.

* Register No. 72.

2. The general feeling among Native Christians in Mysore appears to have been adverse to the introduction of the Succession Act. I am not aware of the reasons which may have weighed with the Right Honourable the Governor General's Council for making laws and regulations, in overruling any objections which may have been made to the Act by Native Christians in Her Majesty's Territories. But I think that there is a good deal to be said on both sides. The provisions of the Act are in the abstract fair and reasonable; and there is some inconvenience in maintaining in Mysore a rule of succession different from that which obtains in the surrounding provinces, with which there is constant communication. It is likely to lead to such questions of domicile as have given rise to much litigation in England.

3. On the other hand, it would be a violent measure, and necessarily productive of hardship in the outset, to alter the rule of succession of a numerous class of the community who have made their calculations and built their hopes on the rules of Hindu law. It might even be an impediment to conversion.

4. Impressed with the difficulties of the case, I have no inclination to question the soundness of the conclusions drawn by the late Judicial Commissioner and other officers, and concurred in by the Commissioner. Native Christians may be left to choose the customs by which they will be governed, agreeably to the judgment of the Lords of the Privy Council in the Abraham Case; and I shall be content if the present practice of the Judicial Commissioner's Court is legalized by the application of the Act to such classes as now proceed under it, *viz.*, British and Foreign Christians, and Christians of mixed European descent.

XI

Letter General No. 1874—*Judicial* 81, *dated Bangalore, 30th June* 1868, *from L. Bowring, Esq., Commissioner of Mysore, to the Secretary to the Government of India, Foreign Department, Simla.*

With reference to my letter No. 2828-47 of the 8th September 1866, Home Department, I have the honor to submit for the information of His Excellency the Viceroy and Governor General of India in Council the accompanying copy of a letter No. 536-64, of the 25th June 1868, from the Officiating Judicial Commissioner in Mysore, and to solicit the favor of early orders being passed for the introduction of the Indian Succession Act X of 1865 into the Provinces of

Class. AN TELEGRAPH. Monthly Local No.

To Station

From Station

Words. Day. Hour. Minute. Official Instructions.

To (Person) From (Person)

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1st Class Limited

Would you oblige Mr for all papers
after date
Chairman Committees
Thanking papers not
Received yet

Office | Note early. Regr has forgotten? He saw papers 2
or 3 days ago & returned them with order to effect that Jud's
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I let him know what point was - Is
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Yr. Obt. K. S.

No 11

RECD FROM L. N.
AT Hrs. Mts. By

SENT TO 17/4 L. N.
AT Hrs. Mts. By

Date

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No. 2072—2089, dated Bang[redacted] the 21st June 1889.

From—Colonel Sir O. B. C. St. Joh[redacted].S.I., Resident in Mysore,

To—The Secretary to the Government [redacted]ia, Foreign Department.

I have the honour to recommend the[redacted]nsion to the civil and military station of Bangalore of the provisions, s[redacted]as they may be applicable, of the following enactments, namely :—

(*a*) Act No. V of 1881 (The Proba[redacted]d Administration Act, 1881).

(*b*) Act No. VI of 1889 (An Act t[redacted]end the Indian Succession Act, 1865, the Probate and Ad[redacted]tration Act, 1881, the Court-fees Act, 1870, and the Indian S[redacted] Act, 1879, and to make provision with respect to certain [redacted] matters).

(*c*) Act No. VII of 1889 (The Suc[redacted]n Certificate Act, 1889).

2. The native population of the civi[redacted] military station is large and prosperous; and the Civil Judge has brou[redacted] notice that the want of Act V of 1881 causes practical inconvenience. T[redacted]pinion appears to me reasonable; and I observe that it has been found ne[redacted]ry to apply the Act to Berar and the railways in Rajputana and Hyderabad[redacted]tories.

3. Act VI of 1889 amends three* Act[redacted]ich are now in force in the civil and [redacted]ry station. Similarly Act VII of [redacted]repeals such an Act, *viz.*, Act XV[redacted]f 1860.

* Indian Succession Act.
Court-fees Act.
Stamp Act.

4. A draft notification extending the [redacted] Acts as suggested above is enclosed.

5. I also submit a draft of a notificat[redacted] would propose to issue under section 2 of Act V of 1881, authorising t[redacted]istrict Court in the civil and military station to receive applications for [redacted]te and letters of administration. This [redacted] seems to be in accordance with recen[redacted]tructions from the Government [redacted]

† Home Department to the Chief Commissioner of Coorg, No. 422, dated the 2nd April 1889. (Copy attached for reference).

No. 422, dated Calcutta, t[redacted]d April 1889.

From—J. P. Hewett, Esq., Officiating S[redacted]y to the Government of India, Home Department,

To—The Chief Commissioner of Coorg.

With reference to paragraph 3 of th[redacted]tter from this department, No. 1866, dated the 28th December last, I am [redacted]ted to say that the effect of the Succession Certificate Act VII of 1889 wil[redacted]s believed, be to induce most representatives of deceased persons to take [redacted]tters of administration under Act V of 1881. I am accordingly to invite[redacted]ntion to the necessity for authorizing all District Courts under this Act [redacted]eceive applications for probate and letters of administration, and to reques[redacted]t the needful draft notification may be submitted for the approval of the G[redacted]nor-General in Council under section 2 of the Act.

DRAFT NOTIF[redacted]ION.

Whereas the Governor-General in Cou[redacted]as power and jurisdiction within the civil and military station of Bangalo[redacted]n exercise of such powers and jurisdiction, and of the powers conferred [redacted]sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, XXI of 1[redacted]and of all other powers enabling him in this behalf, the Governor-General i[redacted]ncil is pleased to extend the

provisions, so far as they may be applicable, of the following enactments to the civil and military station of Bangalore, namely:—

Act No. V of 1881 (The Probate and Administration Act, 1881).

Act No. VI of 1889 (An Act to amend the Indian Succession Act, 1865, the Probate and Administration Act, 1881, the Court-fees Act, 1870, and the Indian Stamp Act, 1879, and to make provision with respect to certain other matters).

Act No. VII of 1889 (The Succession Certificate Act, 1889).

DRAFT NOTIFICATION.

In exercise of the power conferred by section 2 of Act V of 1881 (The Probate and Administration Act, 1881), as extended to the Civil and Military Station of Bangalore, the Resident in Mysore is pleased, with the previous sanction of the Governor-General in Council, to authorise the District Court of the Civil Judge in the said station to receive applications for probate or letters of administration within the said station.

No. 3153-I., dated Simla, the 7th August 1889.

NOTIFICATION—By the Government of India, Foreign Department.

Whereas the Governor-General in Council has power and jurisdiction within in the Civil and Military Station of Bangalore; In exercise of such powers and jurisdiction, and of the powers conferred by sections 4 and 5 of the Foreign Jurisdiction and Extradition Act, XXI of 1879, and of all other powers enabling him in this behalf, the Governor-General in Council is pleased to apply the provisions, so far as they may be applicable, of the following enactments to the Civil and Military Station of Bangalore, namely:

The Probate and Administration Act, V of 1881.

The Probate and Administration Act VI of 1889.

The Succession Certificate Act, VII of 1889.

2. For the purpose of facilitating the application of the provisions of the enactments hereby applied, any Court in the Civil and Military Station of Bangalore may construe them with such alterations, not affecting the substance, as may be necessary or proper to adapt them to the matter before the Court.

3. So much of Foreign Department Notification No. 2252-I., dated 7th August 1883, as extended Act XXVII of 1860 to the Civil and Military Station of Bangalore is hereby cancelled.

No. 3166-I., dated Simla, the 8th August 1889.

From—G. R. IRWIN, Esq., Junior Under-Secretary to the Government of India, Foreign Department,

To—The Resident in Mysore.

I am directed to acknowledge the receipt of your letter No. 2072—2089, dated the 21st June 1889, in which you recommend the extension to the civil and military station of the Probate and Administration Act, V of 1881, the Probate and Administration Act, VI of 1889, and the Succession Certificate Act, VII of 1889.

2. I am to forward for your information a copy of a Notification No. 3153-I., dated the 7th August 1889, extending the provisions of the above Acts as

desired; and in returning for publication the draft of the notification under section 2 of the Probate and Administration Act of 1881, I am to point out, with reference to that section and section 87 of the Act, that the notification as now modified not only empowers the District Court of the Civil Judge to receive applications for probate or letters of administration, but the Court of the Resident also, as a High Court, to exercise concurrent jurisdiction in this respect.